

## UNITED STATES DISTRICT COURT

for the

District of Montana

United States of America

v.

Todd Sean Franklin

Date of Original Judgment: 3/26/2014

Date of Previous Amended Judgment: \_\_\_\_\_

(Use Date of Last Amended Judgment if Any)

Case No: CR 13-38-M-DWM

USM No: 12867-046

Defendant's Attorney

ORDER REGARDING MOTION FOR SENTENCE REDUCTION  
PURSUANT TO 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of \_\_\_\_\_ months is reduced to \_\_\_\_\_.  
(See Page 2 for additional parts. Complete Parts I and II of Page 2 when motion is granted)

Defendant seeks a sentence reduction under the retroactive application to the criminal history rules in Parts A and B, subpart 1 of Amendment 821 to the United States Sentencing Guidelines. (See Doc. 118.) Defendant is ineligible.

"In a case in which the defendant is serving a term of imprisonment, and the guideline range applicable to that defendant has subsequently been lowered as a result of an amendment to the Guidelines Manual[, including Amendment 821 (parts A and B, subpart 1 only)], the court may reduce the defendant's term of imprisonment as provided by 18 U.S.C. § 3582(c)(2)." USSG §1B1.10(a)(1), (d). However, "[o]nly a term of imprisonment imposed as part of the original sentence" is authorized to be reduced under §1B1.10; the section "does not authorize a reduction in the term of imprisonment imposed upon revocation of supervised release." USSG §1B1.10, comment (n.8(A)).

Here, Defendant completed the term of imprisonment imposed as part of his original sentence and is currently serving a sentence imposed for violations of the terms of his supervised release. (Doc. 116.) Therefore, Amendment 821 does not apply. Because Defendant is clearly ineligible for a sentence reduction under the retroactive application of Amendment 821, his motion is denied.

Except as otherwise provided, all provisions of the judgment dated \_\_\_\_\_ shall remain in effect.

IT IS SO ORDERED.

Order Date: April 22, 2024

Effective Date: \_\_\_\_\_

(if different from order date)

Judge's signature

Donald W. Molloy, District Judge

Printed name and title